

# Part 5 The Faculty of Law

# The Faculty of Law

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# The Faculty of Law

Dean: Professor M Coper

## The Law degrees

The Faculty of Law offers undergraduate programs for the pass degree of Bachelor of Laws and for the degree of Bachelor of Laws with honours. Graduate programs in the areas of dispute management, commercial law, environmental law, international law, public law and legal practice are also offered.

The Faculty offers supervision of candidates for the degrees of Master of Philosophy, Doctor of Juridical Science and Doctor of Philosophy.

The Legal Workshop, which is part of the Faculty of Law, offers a Graduate Diploma in Legal Practice program to students who have been admitted to, or who have successfully completed the program of study for, the degree of Bachelor of Laws or an equivalent degree at an Australian university or other approved tertiary institution.

### Application for enrolment

Applicants for enrolment in the Faculty of Law must first meet the University's admission requirements. There is a quota, determined from year to year, for new undergraduate enrolments in the Faculty. Admission to the University does not guarantee admission to the Faculty of Law.

Applicants will be advised towards the end of January 2002 whether they have been accepted for entry. Those selected will then be given a time limit in which to notify the University whether or not they wish to take up the offer of a place.

There are no prerequisite school subjects for law studies. The most important skill of the intending law student is an ability to write clear, concise and correct English.

A student admitted to a combined program will be required to complete that study on a full time basis at least for the first year. A student admitted to the LLB or the LLB(G) may elect to undertake either full or part-time study.

### Normal Duration (in years)

	Full Time	Part Time	Max Time
LLB(G)	3	6	10
LLB	4	8	10
Combined	5	n/a	11

### Changes to program structures and unit values

For a full explanation of the changes to program structures, unit values and program legislation, please see the General Information section of this Handbook.

### A full-time student may complete the program in four years. A suggested pattern for Bachelor of Law students is as follows:

	First Semester	Second Semester
Year 1 Total 48 units	LAWS1201 Foundations of Australian Law LAWS1203 Torts LAWS1204 Contracts 1 non-law elective course	LAWS1202 Lawyers, Justice and Ethics LAWS2250 International Law LAWS1205 Australian Public Law 1 non-law elective course
Year 2 Total 48 units	LAWS2201 Administrative Law LAWS2203 Corporations Law LAWS1206 Criminal Law and Procedure 1 Law elective course	LAWS2202 Commonwealth Constitutional Law LAWS2249 Legal Theory 2 Law elective courses
Year 3 Total 48 units	LAWS2204 Property 3 Law elective courses	LAWS2205 Equity and Trusts 3 Law elective courses
Year 4 Total 48 units	LAWS2244 Litigation and Dispute Management 3 Law elective courses	LAWS2207 Evidence 3 Law elective courses
Program Total 192 units		

It is suggested that LLB students could undertake this degree in a modified pattern if they wished, beginning with 6 courses in first year. This would ensure that they remained full-time (at 3 courses per semester) in the first year, and carried a heavier load, and therefore incurred a heavier HECS cost, in the later years.

## LLB Handbook

More details on undergraduate courses, faculty policies and procedures are contained in the LLB Handbook.

### The degree of Bachelor of Laws

(Program code 4300)

The curriculum consists of compulsory and elective courses, each worth 6 units (with the exception of Research Paper, worth 12 units) and one semester in length, with 48 units per year being the standard load adopted by the University. The normal load in each semester is 24 units. The compulsory courses are designed to ensure that every student gains a sufficient grounding in the fundamental branches of the law, and the elective courses provide an opportunity to develop particular interests and to deepen understandings.

Students enrolled in a Bachelor of Laws program prior to 1999 should see the LLB Handbook for information about transition arrangements and if necessary consult a program adviser.

In summary, the Bachelor of Laws program consists of the following: 12 compulsory courses (named below), worth 72 units; 18 law elective courses, worth 108 units, which may include the 3 elective courses for admission to practice, and 2 non-law elective courses, worth 12 units. 192 units in total.

Compulsory Courses consist of:

Administrative Law LAWS2201  
Australian Public Law LAWS1205  
Commonwealth Constitutional Law LAWS2202  
Contracts LAWS1204  
Criminal Law and Procedure LAWS1206  
Equity and Trusts LAWS2205  
Foundations of Australian Law LAWS1201  
International Law LAWS2250  
Lawyers, Justice and Ethics LAWS1202  
Legal Theory LAWS2249  
Property LAWS2204  
Torts LAWS1203

Elective courses required for admission to practise law:

Corporations Law LAWS2203  
Evidence LAWS2207  
Litigation and Dispute Management LAWS2244

Not all elective courses are offered each year and the list is subject to change from time to time. Law electives are not studied in the first year and there is no requirement for newly-enrolling first-year students to specify the elective courses they intend to study in later years. By the time choice of electives is required students are usually well informed of the factors which should guide their choices; in any case the Sub-Dean or Student Administration Manager are happy to assist those who need help in choosing electives.

**The degree of Bachelor of Laws for graduates of other disciplines**

(Program code 4303)

Graduates of non-law disciplines may apply to undertake a shortened program referred to as the LLB(G) program. In summary the LLB(G) program consists of the following:

- 12 compulsory courses, worth 72 units;
- 12 law elective courses, worth 72 units, which may include the 3 elective courses for admission to practice.
- 144 units in total.

The LLB(G) program is intended to be completed in three years full-time.

The Faculty is conscious that students taking the law program for graduates of other disciplines have a more concentrated program of study than other law students. Part-time students in this program particularly face greater difficulties than other students. They have to undertake a work load of up to eight class hours a week. Students also need to devote a considerable amount of time to reading, private study and written exercises. Intending students are therefore urged to consider all their commitments very carefully before applying and, more especially, before accepting the offer of a place in the law program for graduates of other disciplines.

**The standard pattern of subjects for full-time students taking the LLB(G) program is:**

	<i>First Semester</i>	<i>Second Semester</i>
<i>Year 1 Total 48 units</i>	LAWS1201 Foundations of Australian Law LAWS1203 Torts LAWS1204 Contracts LAWS1206 Criminal Law and Procedure	LAWS1202 Lawyers, Justice and Ethics LAWS1205 Australian Public Law LAWS2250 International Law LAWS2249 Legal Theory
<i>Year 2 Total 48 units</i>	LAWS2201 Administrative Law LAWS2203 Corporations Law 2 Law elective courses	LAWS2202 Commonwealth Constitutional Law 1 Law elective course 2 Law elective courses
<i>Year 3 Total 48 units</i>	LAWS2204 Property LAWS2244 Litigation and Dispute Management 2 Law elective courses	LAWS2205 Equity and Trusts LAWS2207 Evidence 2 Law elective courses
<i>Program Total 144 units</i>		

It is suggested that LLB(G) students could undertake this degree in a modified pattern if they wished, beginning with 6 courses in first year. This would ensure that they remained full-time (at 3 courses per semester) in the first year, and carried a heavier load, and therefore incurred a heavier HECS cost, in the later years.

**The degree of Bachelor of Laws with honours**

The length of the program of study for the degrees of Bachelor of Laws and Bachelor of Laws with honours is the same. The degree may be awarded at first class; second class, division A; or second class, division B level.

The final honours examination comprises two parts, Part A and Part B. 70% is allotted to Part A and 30% to Part B. The mark for the final honours examination is a mark on a 10 point scale.

The honours result of a candidate will be classified in 2002 in the following manner:

**Honours (first class):** if the candidate obtains a mark of 4.25 or more in each of Parts A and B, and a mark of 7.25 or more in the final honours examination;

**Honours (second class, division A):** if the candidate obtains a mark of 4.25 or more in each of Parts A and B, and a mark of 5.75 or more (but less than 7.25) in the final honours examination;

**Honours (second class, division B):** if the candidate obtains a mark of 4.25 or more (but less than 5.75) in each of Parts A and Parts B, provided that the Faculty may make an award of honours where the student has a mark of 4.25 or more in the final honours examination and there is a marginal shortfall in Part A which may be seen to be compensated for by the result in Part B.

More information is contained in the *LLB Handbook*.

Part A consists of the weighted average mark on a 10-point scale of all law courses (with the exception of the Research Paper) taken by the student as part of the pass degree program, except that in determining the weighted average mark, the mark obtained in the lowest 18 units or equivalent will be discarded.

**Previous law studies**

A student who enrolls in an ANU LLB degree after completing law studies at another university may only be granted status for up to half of the courses prescribed for the ANU degree. A student may not repeat in the LLB program a course the syllabus of which is substantially similar to that of a subject passed for the award of another degree or diploma.

With respect to combined degree programs, a newly-enrolling graduate whose previous degree studies included law courses (eg a degree of Bachelor of Jurisprudence or a degree in Arts, Economics, Commerce or Science undertaken as part of a combined degree program with law) will not normally be enrolled in the three-year LLB(G) program. Instead, enrolment will usually be in the four-year LLB program, with status for ANU law courses which the Faculty deems to be equivalent to law courses previously passed and, if necessary, with additional status for unspecified elective courses such that the graduate may, without an unduly heavy work load, complete the requirements of the LLB degree in the equivalent of a further two years of full-time study. The intention of this provision is to treat the graduate who has undertaken sufficient law studies in the previous degree in a manner similar to a student enrolled ab initio in an ANU five-year combined degree program.

Part B is a research paper undertaken in fulfilment of the requirements of the Research Paper. The Research Paper is of not less than 9,000 nor more than 11,000 words on an approved topic and is supervised by a member of the Faculty. The object is to enable the honours candidate to undertake sustained, intensive work on a specific piece of legal research. (See Details of courses for course description.)

Any student wishing to graduate with an honours degree must enrol in and complete the Research Paper in one semester of the final full-time year of the Bachelor of Laws degree. To be eligible to enrol in the Research Paper, students require an overall law course average mark of 4.5 or above on the 10-point scale. In addition, a prerequisite course Research Methodology must be completed. It is offered each semester.

**Combined programs**

The University offers combined programs in the Faculties of Arts and Law, Asian Studies and Law, Economics & Commerce and Law, and Science and Law. A student may gain two degrees, either Bachelor of Arts and Bachelor of Laws; Bachelor of Asian Studies and Bachelor of Laws; Bachelor of Commerce and Bachelor of Laws; Bachelor of Actuarial Studies and Bachelor of Laws; Bachelor of Economics and Bachelor of Laws; Bachelor of Science and Bachelor of Laws; or Bachelor of Psychology and Bachelor of Laws in a period of five years full-time study and Bachelor of Asian Studies (Specialist) and Bachelor of Laws in a period of six years full-time study. The Faculty of Law encourages students other than graduates to take one of these combined programs. One of the reasons is to widen the student's education and understanding by studying society from a viewpoint outside that of legal scholarship. Please refer to the Combined Programs section of this Handbook.

## Internship Program

The Faculty has approved a program that enables students in their ultimate or penultimate years of the law program to obtain an internship with a senior law professional. Students are placed in a professional workplace (for example a law firm, a court, a government agency or a non-government organisation) to complete a 6000 word research paper on an agreed topic under the supervision of a workplace lawyer. Successful completion results in the credit of an elective course towards a law degree.

Students from universities other than the ANU, in Australia or overseas, are welcome to enrol, either as part of a broader program or for the internship alone. Enquiries should be directed to the Faculty Office.

## General

### Work loads

The Faculty suggests the number and order of courses, compulsory or elective, which a student may take in any year. Generally a full-time student will have a contact work load of 16 hours a week and a part-time student 8 hours.

Lectures are usually timetabled to start at 8 am and end at 6 pm. Part-time students should, therefore, ascertain before they register their enrolment or apply to re-enrol whether they will be able to obtain leave of absence from their employment to attend lectures.

Students should be aware that varying their enrolment may have implications for their Austudy/Youth Allowance eligibility. It is the students' responsibility to ensure that their program load is full time in each semester.

### Summer and Graduate Employment

An interview scheme for summer and graduate employment is conducted during the year for students in their penultimate and final years of study. The participating employers include the major Sydney corporate law firms, a diverse range of middle-sized and smaller firms in Sydney, Canberra and other areas, and public authorities of the Commonwealth, New South Wales and the Australian Capital Territory. The Sydney part of the scheme involves cooperation with law schools in NSW.

The scheme provides a standard application form and period for interviews for which the Careers and Employment Centre in liaison with the Faculty acts as coordinator and conduit and encourages participating employers to provide information to students by way of written profiles and Careers Day presentations.

Information about participating employers, dates for employer presentations, and deadlines for student applications is available from the Careers and Employment Centre.

### The ANU Law Students' Society

The ANU Law Students' Society is a student organisation to which all law students are eligible to belong. Its program is directed by a committee elected by student vote in the third term of each year.

Throughout the year the Society sponsors a number of extra-curricular academic activities, such as talks by leading members of the profession, debates and career forums, and an extensive social program.

Perhaps the Society's most important function is its contribution to staff/student relations. Members of the Society sit on Faculty committees which meet regularly to discuss matters of mutual concern and to consider suggestions from the students.

The Law Society has an office on the Ground floor. Messages may be left in the letterbox.

### Faculty Education Committee

The Faculty Education Committee consists of equal numbers of staff and students and is chaired by the Dean or Sub-Dean. It considers and reports to the Faculty of Law on educational matters relating to law programs, including the means of assessment in each course.

### Faculty Officers

At the head of the Faculty is the Dean, assisted by Associate Deans (one of whom is designated the Sub-Dean) and the Faculty Execu-

tive Officer. Students should speak to the Student Administration Manager in the Faculty Office in the first instance on matters concerning degree rules, regulations, programs and general administration. Members of the teaching staff are always willing to advise students on problems arising from the programs in general or from particular subjects.

### Academic performance

Academic performance is monitored by the Director, Student Administration and Support Services. See the General Information section of this Handbook.

### Admission of ANU graduates to legal practice

The Bachelor of Laws degree of the University is recognised for admission in the ACT and NSW so long as students cover all the courses required under the Uniform Admission Rules. As well as the compulsory courses in the Bachelor of Laws degree, these Rules require Evidence, Litigation and Dispute Management, and Corporations Law for admission followed by a practical legal training program such as the Legal Workshop (see below). When graduates apply for admission to practice they will need to give evidence of having completed the courses prescribed by the Uniform Admission Rules. This evidence is usually in the form of a certificate by the Dean of Law. Inquiries concerning direct admission to practice in other jurisdictions should be directed to the Sub-Dean.

Once admitted to practice in any state or territory of Australia, graduates are entitled to be admitted in all other states and territories of Australia. They may also have their names entered on the High Court register, which entitles them to practise in all Federal jurisdictions.

For admission to some courts, but not others, it is necessary to be an Australian citizen or a British subject. Students with any doubts on their eligibility for admission should consult the Secretary of the appropriate Admission Board as early as possible.

### Legal Practice Program

The Legal Workshop offers the Graduate Diploma in Legal Practice (GDLP). Students can choose from several formats for the GDLP:

- full-time attendance over five months
- a part-time option involving one, two or three week attendances over up to three years
- a flexible option involving two-week attendances with a series of distance modules, usually over the period of one year
- a reduced, "In Practice" version of the program for approved placements of 80, 60 or 40 days.

Students who have graduated or qualified to graduate as Bachelor of Laws from an Australian university or diplomates of the Solicitors Admission Board of New South Wales are eligible to enrol. The GDLP can be credited towards an LLM(Legal Practice).

Details of the programs are in a separate brochure obtainable from <http://law.anu.edu.au/legalworkshop> or the Legal Workshop, Faculty of Law.

The program provides common training for all practitioners, whether they ultimately propose to practise as barristers or solicitors or both. It consists mainly of instruction in common legal office procedures and skills training followed by a work program of exercises and simulated legal transactions, for students to practise procedures and skills. The GDLP includes trust accounts and legal ethics courses which the Uniform Admission Rules require for admission.

### Law Library

The Law Library, as part of the ANU Library system, provides access to a wide range of legal material in both print and electronic form. The library houses a significant collection of cases, legislation, books and journals that is both supportive of academic research and relevant to the program curriculum offered by the Faculty of Law. In addition to the traditional print collection, legal resources are also available to ANU staff and students through legal databases such as LEXIS and via the internet.

Law library staff are pleased to provide assistance in using all aspects of the law collection and offer a variety of training sessions on accessing legal databases and undertaking legal research.

## Compulsory Courses and Courses Required for Admission to Practice

### Administrative Law

**LAWS2201**  
**(6 units)**

First semester

Prerequisites: Australian Public Law

Syllabus: This course examines the legal framework for controlling decision-making by Commonwealth, State and local government agencies in Australia. The focus of the course is upon the legal restraints upon government, and the way in which the principle of government accountability is maintained. Particular attention is paid to the role played by courts, tribunals, Ombudsman and other agencies in reviewing government decision-making, and to the opportunities available to the public to question government activity. Control of government information practices is another distinct theme. The course covers the core administrative law material required for admission purposes and for work in the area of law and government. The following topics will be covered:

- theories of administrative justice;
- accountability in an administrative state;
- the administrative law framework for review of government decision-making;
- concepts of administrative and judicial review;
- judicial review principles;
- administrative review principles;
- standing;
- remedies;
- other administrative law avenues including information access rights; ombudsman; human rights and anti-discrimination bodies; investigative bodies and royal commissions.

### Australian Public Law

**LAWS1205**  
**(6 units)**

First semester

Second semester for LLB and LLB(G) students only (not available for students in combined degrees)

Syllabus: This course examines the structure and themes of Australian public law, and in that way provides a bridge to all other public law study in the curriculum. In essence, the course examines a prominent feature of the Australian legal system, namely how power is structured, distributed, and controlled in Australia. The distinctive roles played by the legislature, the executive and the judiciary receive special attention. Subsidiary themes in the course are protection of individual rights in the Australian legal system, and constitutional change and evolution in Australia. The following topics will be covered:

- the constitutional and legislative framework for Australian public law;
- major concepts and themes in Australian public law, including federalism, separation of powers, representative democracy, rule of law, liberalism, and citizenship;
- the Legislature, including the structure of Australian legislatures, parliamentary supremacy, and express and implied constitutional limitations on legislative power;
- the Executive, including the structure of Executive government, executive power, and liability of the Crown;
- the Judiciary, including the constitutional separation of judicial power, and the administrative law implications of judicial separation;
- constitutional change and evolution, including constitutional amendment.

### Commonwealth Constitutional Law

**LAWS2202**  
**(6 units)**

Second semester

Prerequisite: Australian Public Law

Syllabus: Building on previous public law studies, particularly Australian Public Law, this course aims to deepen student understanding of key aspects of the Commonwealth Constitution and its judicial interpretation by the High Court. Particular attention will

be paid to the historical, social and institutional forces which have helped shape the Constitution and the High Court's reading of it. The course includes:

- the historical, social and institutional context of Australian constitutional law;
- the scope of Commonwealth legislative power, including a detailed examination of the trade and commerce power (s.51(i)), the corporations power (s.51(xx)) and the external affairs power (s.51(xxix)); the process of characterisation and the principle in the Communist Party Case;
- inconsistency between Commonwealth and State laws (s.109);
- federal financial powers and economic union;
- general principles and theories of interpretation; the Engineers Case and implied intergovernmental immunities;
- an introduction to implied constitutional 'rights';
- the nature of judicial review and the role of the High Court.

### Contracts

**LAWS1204**  
**(6 units)**

Second semester

First semester for LLB and LLB(G) students only (not available for students in combined degrees)

Syllabus: The Contracts course is one of the foundation subjects in the law course and examines a central aspect of the law of obligations. The evolution of contract, its central role in a market economy and the criteria for making legally enforceable promissory obligations are explored before embarking on the requirements for the formation of contract. The content of agreements and the associated rules and doctrines for ascertaining the meaning and scope of the obligations expressly or impliedly undertaken by the parties is discussed. The invasion of contract by new rules, in particular estoppel and the prohibition on misleading or deceptive conduct, makes it clear that the commercial relationship is multi-faceted and that the study of contract law ranges more widely than the traditional rules. Equitable doctrines, such as duress, undue influence and unconscionability as excuse areas for escaping contractual commitment, are examined. The course finishes with breach and its consequences, including a discussion of the common law and equitable remedies.

### Corporations Law

**LAWS2203**  
**(6 units)**

First semester

Prerequisite: Contracts

Syllabus: This course imparts an understanding of Australian corporate law. The course is structured to meet the admission requirements for practice as a legal practitioner in the Australian States and Territories. The following topics will be covered:

- incorporation and the concept of separate legal personality;
- the corporate constitution;
- membership of the corporation and share capital;
- corporate contracting;
- duties and liabilities of directors and officers;
- basic features of the management of companies;
- shareholders' remedies;
- company credit and security arrangements;
- winding up.

### Criminal Law and Procedure

**LAWS1206**  
**(6 units)**

First semester

Syllabus: A student who successfully completes the course should have:

- a sound knowledge and critical understanding of the relevant legislation and case law;
- an ability to apply this knowledge and understanding in such a way as to identify the legal issues presented by a factual problem;
- a familiarity with the important debates about the purpose of the criminal law and the fundamental concepts it embodies.

Topics will include: the nature and purposes of criminal law, theories of criminal culpability; elements of criminal offences; offences against

the person (including homicide, assaults, sexual offences); offences against property; complicity; and the law of criminal procedure.

### English in a Legal Context

**LAWS1209**  
(zero units)

First and second semester

Prerequisite: none. This course is only available to first-year students whose first language is not English

Syllabus: The aim of this course is to assist first year law students who have English as a second language to address and overcome any issues or problems they are experiencing with their legal studies as a result of their lack of English language background. The course takes material from subject areas to which students are exposed in their first year of law studies (Foundations of Australian Law, Torts, Lawyers Justice and Ethics and Contracts) and creates activities designed both to help students to develop a cultural context for their legal studies and to acquire the practical legal skills they will need for their future study and practice.

The following is an example of the kinds of issues that are addressed and skills that are practised:

- how to read cases;
- how to write case notes;
- techniques to simplify legal writing;
- how to speed up reading of cases and other material;
- preparing for tutorial problems; and
- participating effectively in discussion groups.

### Equity and Trusts

**LAWS2205**  
(6 units)

Second semester

Prerequisite: Property

Syllabus: The objective of the course is to provide students with an overall understanding of the law of equity with special emphasis on fiduciary obligations, trusts, equitable assignment of property and equitable remedies. The course will examine:

- the history of equity, basic principles which dominate its jurisprudence and the relevance of equity today;
- the nature of fiduciary obligations, recognised categories of fiduciaries and the extension of these categories in recent times, breach of fiduciary obligations, defences and remedies for the breach of fiduciary obligations;
- the nature and changing function of trusts, the creation of express trusts, the variation and termination of trusts, illegality, the duties, powers, rights and liabilities of trustees, the rights of beneficiaries;
- equitable proprietary and personal remedies including the liability of a third party to a breach of trust or fiduciary duty, resulting trusts, constructive trusts, tracing, specific performance, injunctions, equitable compensation and damages under Lord Cairns' Act; and
- equitable assignments.

### Evidence

**LAWS2207**  
(6 units)

Summer session and second semester

Prerequisites: Torts and Criminal Law and Procedure

Syllabus: Participants should gain a good understanding of the basics of the law of evidence as it is stated in the Evidence Act 1995 (Cth). The course is structured to meet the admission requirements for practice as a legal practitioner in the Australian States and Territories.

The course will begin with a consideration of the process of fact-finding, the concept of relevance (including tendency and co-incidence evidence), and the judicial discretions to exclude evidence. It will then turn to documentary evidence, opinion evidence and the hearsay rule and its exceptions. Topics relating to the course of the trial will be a major focus. Other topics will include the onus and standard of proof, the position of a defendant in a criminal trial, the question of illegally obtained evidence and the admissibility of admissions in criminal matters.

### Foundations of Australian Law

**LAWS1201**  
(6 units)

First and second semester

Syllabus: This course is a foundational course and must be completed at the beginning of the degree. It is designed:

- to acquaint students with the various elements of the Australian legal system, including constitutions, case law, legislation and customary law;
- to consider the historical, social, economic and political context in which the Australian legal system has developed;
- to introduce students to various techniques and methods of legal analysis and legal research;
- to teach students to evaluate critically legal and contextual material;
- to introduce students to the art of legal writing in its various forms.

The broad aim of this course is to provide students with an introduction to Australia's rich legal tradition, and to help them acquire the skills needed to succeed in the study of law. Stated another way, Foundations of Australian Law is intended to lay the groundwork for the remainder of one's legal studies. Topics to be covered include: legal history and the common law tradition; the modern-day elements of the legal system and their interplay; the concepts of responsible government and the rule of law; the role and powers of the legislature; federalism; case law and legislation; legal reasoning and problem solving; the position of the Aboriginal Peoples within the legal system. This course is informally "twinned" with LAWS1203 Torts in semester one and LAWS1204 Contracts in semester two. It is strongly recommended that students enrolled in Foundations of Australian Law simultaneously undertake the relevant companion course.

### International Law

**LAWS2250**  
(6 units)

Second semester

Syllabus: Open a newspaper, listen to the radio or watch television and you will see or hear about issues of relevance to international law. Almost no major area of Australian law remains unaffected by international law, so an understanding of international law is essential for any legal practitioner in the twenty-first century. Given this vast scope, this course does not seek to cover all aspects of international law. Instead it aims to offer an introduction to the main principles and substantive elements of the international legal system, both for those students who will go on to study some of the interesting international law electives available in the Faculty and for those who intend to study and practise in other fields. The course seeks to achieve these objectives by clarifying the institutional framework, theoretical bases and processes of the international legal system and then applying them, in a practical way, both to Australian law and to some specific fields of international law.

Accordingly, the course is designed to enable students to:

- identify, locate and evaluate the principles of international law;
- appreciate how the international legal system operates in practice and its effect on the Australian legal system;
- understand the language and methodology of international law;
- analyse international legal issues;
- become familiar with the different theoretical bases of international law.

### Lawyers, Justice and Ethics

**LAWS1202**  
(6 units)

Second semester

Syllabus: Whereas law is commonly studied as a body of doctrine or rules, Lawyers, Justice and Ethics makes a critical and contextual examination of legal process, legal practice, and the legal profession.

The course is designed:

- to impart an awareness of the social, political and economic contexts of legal practice, litigation and statutory law-making;
- to generate insight into the realities and diversity of legal practice;
- to examine the nature of legal processes and procedures and the limitations on access to the legal system;

- to investigate the structure and workings of the legal profession from a political and sociological, as well as functional, perspective;
- to explore the ethical dimension of legal practice and the various forms of regulation of professional conduct;
- to introduce students through simulations and role playing to skills required for working in a legal setting, particularly in relation to clients, including interviewing, legal writing, negotiation and advocacy.

### Legal Theory

**LAWS2249**  
**(6 units)**

Second semester

**Syllabus:** This course explores a number of important theoretical issues concerning law. These issues include the nature and function of law in modern societies, the nature of citizens' obligations under law, the nature of legal reasoning and the interpretation of legal texts, the relationship between law, power, justice and democracy and the capacity of the law to provide for gender, cultural and other forms of difference. The course proceeds by way of a critical examination of the leading contemporary schools of thought about law and legal issues. In the course of this examination, specific attention is paid to the perspectives of these schools on such topical issues as civil disobedience, freedom of speech and indigenous sovereignty.

Its objectives are:

1. To familiarise students with the main types of descriptive, justificatory and critical argumentation about law and legal systems.
2. To develop students' ability to engage in reflective and critical thinking about the law.
3. To enable students to appreciate the theoretical background of legal decisions and policy analyses.
4. To enable students to read cases thoughtfully, critically and with an awareness of current interpretive practice and theory.

### Litigation and Dispute Management

**LAWS2244**  
**(6 units)**

First semester

Prerequisites: Torts and Contracts.

**Syllabus:** This course is an introduction to the principles of dispute resolution including civil litigation. The course will introduce the processes known as 'dispute resolution', focusing upon negotiation and mediation. The history and use of these processes will be covered as well as current issues. Students will be given practical exercises through an intensive workshop to encourage them to develop skills in these processes.

The coverage of litigation will reveal the principles underlying civil procedure in superior courts. There will be a consideration of the interlocutory steps in civil litigation as well as appropriate tactics and ethical considerations. The course is structured to meet the admission requirements for practice as a legal practitioner in the Australian States and Territories. Topics to be covered include:

- dispute resolution processes including negotiation, facilitation, mediation, early neutral evaluation, conciliation, arbitration and litigation;
- dispute resolution within the legal system;
- complex dispute resolution processes and case suitability for processes;
- confidentiality in dispute resolution;
- when and how to commence proceedings in court;
- urgent applications.;
- class actions and public interest litigation.

### Property

**LAWS2204**  
**(6 units)**

First semester

Prerequisite: Contracts

The course is designed

- to examine basic concepts and principles of property law relating to personal and real property, with greater attention to interests in land;
- to examine the role of property law in providing tools for commercial and private property dealings, including transfers, financing loans, leasing land, sharing ownership, and regulating land use;
- to examine the values and policy considerations in the legal regulation of such property transactions, including efficiency, security, certainty, equity and social justice;
- to acquire skills in problem solving in relation to property disputes.

This course provides an overview of the law governing personal and real property, emphasising the concepts of possession and title, the fragmentation of proprietary interests, and the various ways in which common law and legislation resolve disputes between competing interests. The greater part of the course is devoted to the nature, creation, acquisition, exercise, and remedies for the protection, of interests in real property (land). The course covers legal and equitable interests in land, the acquisition and transfer of such interests by purchase and adverse possession, priority rules, leases, mortgages, easements, and concurrent ownership. Particular attention is paid to the Torrens system of registration of title.

### Torts

**LAWS1203**  
**(6 units)**

First semester

Syllabus

- to provide knowledge and understanding of the tort of negligence and other related areas of the law of torts.
- to gain an insight, from the perspective of a particular branch of the law, into the way in which the law develops, and the advantages and disadvantages of judicial development of the law.

The tort of negligence is the principal means by which the law provides compensation for a loss caused by another's carelessness, whether that loss be physical injury, damage to property, or financial harm. This course focuses on personal injuries and examines the task of negligence and trespass in this context. A study is made of the essential features of the tort of negligence, the way in which the tort is applied in particular situations, and the principles by which damages are assessed for one who has suffered personal injury by another's negligence. A further subject of study is the torts relating to trespass to the person — battery, assault and false imprisonment.

## Elective Courses

### Banking and Finance

**LAWS2208**  
(6 units)

Not offered in 2002

Prerequisite: Contracts

Syllabus: The course deals with the legal aspects of banking and finance transactions in a dynamic way which balances theoretical perspectives, business context and the principles contained in statutes, cases and commercial custom.

The course begins by discussing the role that banks play in the economy and the legal regulation of banking activity. It focuses on financing and payment facilities in a commercial setting. It covers conventional financing methods, such as bank term loans and bond issues, as well as modern methods such as loan syndication and participation. The specific topics covered include bill facilities, promissory note issues, commercial and standby letters of credit, and bank guarantees. The payment facilities covered include cheques and large-value electronic payments. Finally the course deals with selected topics on the banker-customer relationship which complement the study of financing and payment services.

### Bankruptcy and Insolvency

**LAWS2209**  
(6 units)

First semester

Prerequisite: Corporations Law

Syllabus: This course deals with the law relating to personal and corporate insolvency. This will include examination of the Bankruptcy Act 1966 (Cth) and Chapter 5 of the Corporations Law.

With regard to personal insolvency (ie bankruptcy), the topics to be covered include the initiation and termination of the bankruptcy process; the functions and powers of the trustee in bankruptcy; the ascertainment of the bankrupt's debts; the determination of the assets available for distribution to creditors, and alternatives to formal bankruptcy.

The topics to be covered in relation to corporate insolvency include the appointment, powers, and duties of receivers; schemes of arrangement and reconstruction; voluntary administration; the initiation of the winding-up process; the effects of winding-up; the proof and ranking of creditors' claims; and the appointment, powers, and duties of liquidators.

### Commercial Law

**LAWS2210**  
(6 units)

First semester

Prerequisite: Contracts

Corequisite: Property

Commercial Law aims to provide students with a grounding in the law applicable to common commercial transactions. Commercial Law builds upon the principles studied in Contract Law by examining the regulatory framework that impacts upon contracts entered into by parties in both a commercial and consumer context. Many common commercial and consumer contracts involve personal property and the course will also examine the framework for the regulation of interests in personal property.

The subject will involve the following topic areas:

- Agency
- Sale of Goods
- Consumer Credit
- Insurance
- Property Security

### Comparative Legal History

**LAWS2211**  
(6 units)

Not offered in 2002

Prerequisite: none

Syllabus: This course has four objectives: to introduce students to the use of history as a tool for legal analysis; to introduce students to the comparative legal method; to increase students' depth of understanding of the legal system; and to increase students' proficiency at writing and research.

The course takes as its focus the experience of Australia and Canada, the two most similar of the settler colonies established by Great Britain in the latter half of the eighteenth century. After an introduction to historical comparative method, topics will include: patterns of reception of English law in the colonies; the development of colonial legal institutions; constitutional evolution and growth to nationhood; crime, punishment and policing; anti-discrimination law; gender, family and the law; Indigenous peoples and the law; and trade unionism and industrial relations.

Note

This course is jointly taught with the University of British Columbia and the University of Victoria (Canada).

### Conflict of Laws

**LAWS2212**  
(6 units)

Second semester

Prerequisites: Torts and Contracts

Syllabus: This course is concerned with the way in which the law deals with cases in which not all of the facts are referable to one State or Territory of the Commonwealth. Topics include:

- the law applicable to actions in contract, with particular emphasis on international business transactions;
- the law applicable to actions on torts committed outside the State or Territory in which the proceedings are heard;
- the grounds on which foreign laws and institutions will not be recognised in Australia;
- jurisdiction of Australian courts over defendants either outside Australia or elsewhere within the country;
- the jurisdiction of the High Court and the Federal Court;
- recognition and enforcement in Australia of judgments delivered overseas;

### Contemporary Issues in Constitutional Law

**LAWS2213**  
(6 units)

Not offered in 2002

Prerequisite: Commonwealth Constitutional Law

Syllabus: The course will focus on human rights under the Australian Constitution and will include discussion of the concept of rights, constitutional protection of rights in the context of international law and other legal systems, and theories of constitutional interpretation as they pertain to rights issues.

### Criminal Justice

**LAWS2214**  
(6 units)

Not offered in 2002

Prerequisite: Criminal Law and Procedure

Syllabus: This course examines the process, institutions and contexts of criminal justice. It is designed to develop a critical understanding of the theoretical, legal and policy issues relating to crime, punishment and the criminal process, and to introduce students to interdisciplinary perspectives through an examination of contemporary topics in criminal justice

The first part of the course will examine the role and place of punishment in the criminal justice system. Theoretical perspectives on criminology and criminal justice, both explanatory and normative, will be evaluated. The second part of the course will explore theoretical, legal and policy issues through an examination of a range of substantive topics, such as policing, the 'new investigators' (eg NCA, ICAC), diversionary conferences, criminal investigation, electronic surveillance, the fair trial, entrapment, mode of trial, prosecution, the impact of the criminal justice systems on indigenous peoples, miscarriages of justice, domestic violence, multiculturalism, sentencing and prisons.

### **Environmental Law**

**LAWS2215**  
**(6 units)**

Second semester

Prerequisite: none

Syllabus: This course is concerned with the institutional arrangements and legal principles that underpin the practice of environment and planning law.

The course examines environmental law from theoretical and practical perspectives, taking a broad national and thematic approach. The course commences with an introduction to concepts relating to defining the 'environment', including philosophical/ethical bases for environmental protection and the notion of 'ecologically sustainable development'. It then considers environmental protection in a federal system. This is followed by consideration of the role of local and state/territory governments in the implementation of environmental protection objectives through statutory land-use planning and other measures (including consideration of techniques for development control such as environmental impact assessment). The final component of the course covers regulatory strategies and techniques for pollution control and the enforcement of environmental protection measures (including the topics of standing and access to justice).

### **Environmental Law Elective**

**LAWS2216**  
**(6 units)**

Not offered in 2002

Syllabus: This will vary from year to year. In any given semester the elective will provide intensive coverage of a topic or topics in a substantive area of law relating to the environment.

### **Ethics and Lawyers**

**LAWS2243**  
**(Zero units)**

Prerequisite: This course is designed as a short bridging course to meet the requirements for direct admission to legal practice in New South Wales. From 1 January 2000 all applicants for direct admission in NSW must have completed an academic course in "Professional Conduct" as part of or in addition to their LLB degree, as well as a course of legal ethics in a practical legal training program. Students who have completed the courses Lawyers, Justice and Ethics, Equity and Trusts and Litigation and Dispute Management meet the requirement. Students intending to seek direct admission in the ACT (which qualifies them for reciprocal admission in other jurisdictions) do not need to take the course. Normally the course would be taken at the end of the LLB course.

Syllabus: This course examines key ethical issues which arise in relation to the law and lawyers. It focuses on fundamental ethical issues regarding the formation, structure and operation of the legal system in the Australian community, and offers opportunities for the careful consideration and examination of some of the most important of these issues. The course deals with some samples of ethical dilemmas arising for Lawyers, including as Advocates, Solicitors and Educators, as well as Legislators, Public Trust and Officeholders and also for Judicial Officers at all levels, in the course of their respective activities in, and relating to, the contemporary legal order.

The course is taught in intensive mode. The grade available for satisfactory completion of this course is Course Requirement Satisfied (CRS).

### **Expert Legal Systems**

**LAWS2251**  
**(6 units)**

Second semester

Prerequisite: Information Technology Law

Enrolment: This course is restricted to 20 students.

Syllabus: The course has both a theory and a practical component.

The theory component comprises a review of different styles of legal expert systems, and discussion of issues surrounding the application of computer-assisted legal reasoning. This will be followed by discussion of the legal, governmental, political and social implications of the widespread use of expert systems in public administration.

The practical component of the course educates students in the philosophy and methodology for expert system construction, with particular focus on legislation-based systems. A significant proportion of the course will involve working in teams on the creation of a legal expert system in a domain of the students' choice. This exercise will give a very rich appreciation of the electronic commerce and intellectual property content covered elsewhere in the course.

### **Family Law**

**LAWS2217**  
**(6 units)**

First semester

Prerequisite: none

Syllabus: The course is designed to consider a selection of law as it relates to 'the family' in Australia, to place the law in its political, economic, constitutional and other contexts, and to encourage evaluation of the law and proposals for its reform.

The course explores the nature of 'family' relationships and what happens when there is a separation of the adults within such relationships, both in terms of financial/property outcomes and decisions about parenting. The course commences with a discussion of 'the family', including the difficulties of defining 'family' and what the law's role in this is and should be. It then moves to place family law in various contexts, by examining theoretical perspectives, constitutional and jurisdictional issues and the Family Court and dispute resolution. The following topics are then covered:

- violence by men against women in the home;
- de facto/domestic relationships;
- nullity and dissolution of marriage;
- economic aspects of marriage breakdown (including child support, spousal maintenance and property distribution);
- parenting orders/agreements.

### **Feminist and Critical Legal Theory**

**LAWS2218**  
**(6 units)**

Not offered in 2002

Prerequisite: none

Syllabus: This course introduces students to critical and transformative theories about law and legality. Students draw on these theories to analyse current legal problems. The course has three components. The first is the study of a variety of feminist challenges to the dominant legal orthodoxies. The different and intersecting approaches to theorising the law and the state taken by liberal feminists, radical feminists and postmodern feminist theory are addressed. Second, the course draws on scholarship both inside and outside the discipline of law in order to study legal practices and images of law and legality. This may include law and literature, cultural studies, critical race theory and postcolonial theory.

Third, these theoretical approaches are used to interpret current legal debates in areas such as free speech, native title, sexual harassment, access to in vitro fertilisation and legal education.

### **Health Law and Ethics**

**LAWS2219**  
**(6 units)**

First semester

Prerequisites: none

Syllabus: The course examines the system for the regulation of health care in Australia, involves analysis and development of moral argument about the development of health law in Australia, and addresses the principal legal issues which arise in the practice of health care law.

The course begins with an overview of the health system, its regulatory framework and the policy issues involved, with emphasis on the concepts of health ethics, patients' rights and efficiency and equality in health care. The particular topics which are covered include: confidentiality, consent, negligence, accountability, health records, expert evidence, research and experimentation, organ donation, emergency treatment, intensive care, abortion, reproductive medicine, and death and dying. Some consideration is also given to the law relating to mental health and public health.

**Human Rights Law in Australia****LAWS2220**  
**(6 units)**

Second semester

Prerequisite: Commonwealth Constitutional Law.

Syllabus: This course is concerned with the recognition and establishment in Australia of legal norms protective of human rights in constitutional, statutory and common law. It aims to provide students with an understanding of Australian human rights law and practice. A contextual approach to the teaching of the subject is adopted, drawing on human rights theory, constitutional theory and the perspectives of comparative and international law. Practical means and skills to protect human rights will be identified and their implications considered. As far as possible, the course will deal with current issues.

Topics to be covered include:

- theories of rights
- the constitutional framework for protection of human rights in Australia including express constitutional rights, implied constitutional rights, common law and statutory protections
- institutional mechanisms for the protection of rights, particularly the Human Rights and Equal Opportunity Commission
- discrimination law
- the comparative merits of constitutional, statutory and common law human rights protection; a Bill of Rights for Australia?

**Income Tax****LAWS2221**  
**(6 units)**

Second semester

Prerequisite: none

Syllabus: This course introduces students to the main principles of Australia's income tax system. In order to understand the critical function of taxation in the Australian community, the taxation system is studied in its legal, economic, social and political context. Given the speed with which changes are made to the technical details of tax law, this course seeks to provide students with an understanding of the principles of the income tax system rather than knowledge of a particular but limited set of technical rules.

Topics to be considered include:

- the concept of income;
- personal service income;
- business income;
- the deductions that are available to taxpayers;
- the statutory extensions to the income tax base;
- residency, source and double tax agreements;
- the taxation of trusts, partnerships and companies;
- the legislative measures to counter avoidance;
- tax administration.

This course has been accredited by both the Institute of Chartered Accountants in Australia and the Australian Society of Certified Practising Accountants.

**Indigenous Australians and the Law****LAWS2238**  
**(6 units)**

First semester

Prerequisites: Australian Public Law; Criminal Law and Procedure.

Corequisite: Property

Syllabus: This course aims to arm students with an understanding of, and a critical approach to, the law as it applies to Aboriginal people and Torres Strait Islanders. It presents that law in its historical and cultural context, highlighting problems which stem from that context for the definition of 'Aboriginality' itself and for the relationship between indigenous Australians and the state.

**Information Technology Law****LAWS2245**  
**(6 units)**

First semester

Prerequisites: Intellectual Property.

Syllabus: The course focuses on the cultivation of IT awareness, which is important for understanding the issues presented in the course:

- confidence with computers and IT in general;
- familiarity with a number of different software packages including Microsoft Word, Netscape Navigator and Eudora;
- the capacity for students to produce their own web pages;
- sufficient knowledge for students to be able to critically evaluate proposals for regulation of the web
- In the context of a reasonable level of computer literacy, the following legal issues will be examined:
- proposals and models for regulation of "cyberspace", the current Internet and the "information superhighway";
- computers and information technology as they impact on intellectual property rights;
- electronic commerce;
- computer crime and related issues.

**Intellectual Property****LAWS2222**  
**(6 units)**

Second semester

Prerequisite: none

Syllabus: The course provides an overview of the different areas of law that relate to the protection and exploitation of ideas, information and knowledge. It briefly covers the main aspects of copyright, design, confidential information, patents, trademarks and passing off.

For example, an idea may be kept secret and protected as confidential. It may be expressed in a tangible way and protected by copyright. If the idea is used to change the visual appearance of an article then that appearance may be registered as a design. If the idea is new and inventive, practical uses of it may be exclusively exploited under a patent. And if the idea behind some particular goods and services leads to a reputation being built up, then this may be protected through trademarks, or passing off.

Topics that will also be covered in the course include the use of intellectual property to protect indigenous art and knowledge, the impact of digital technology and the internet, issues of patenting biotechnology and life forms, and the international and competition aspects of intellectual property.

**International Criminal Law****LAWS2252**  
**(6 units)**

Second semester

Prerequisite: International Law

Syllabus: This course will examine the development of the concepts of international criminal law. The topics to be discussed will include:

- the development of individual responsibility under international law for international crimes, including the availability of the defence of superior orders;
- the definition of war crimes, crimes against humanity and crimes against peace;
- the results of efforts to define the broader category of international crimes or crimes against international law (including the work of the International Law Commission and the International Law Association);
- specific international crimes, such as genocide, piracy, and terrorism;
- the mechanisms of enforcement in relation to international criminal acts, including the work of the Nuremberg and Tokyo war crime tribunals and the tribunals established by the United Nations in relation to former Yugoslavia and Rwanda;
- the establishment and role of the International Criminal Court;
- the implementation and enforcement of international criminal law at the national level.

The course will also consider the role of criminal law in societies in transition and other approaches to addressing systematic human rights violations under a former regime.

The course will seek to examine these matters from a political and historical, as well as a legal, perspective and will consider recent feminist critiques of developments in the area.

**International Dispute Resolution** **LAWS2223**  
**(6 units)**

Not offered in 2002

Prerequisite: International Law

Syllabus: The course examines the role of international law and, in particular, international organisations in restoring and maintaining peace and providing mechanisms for the peaceful settlement of disputes (eg arbitration, good offices).

Topics include: the development of legal doctrines, notably state responsibility for international harm and the regulation of the use of force in international law (self-defence, humanitarian intervention, war crimes); the evolution of the United Nations system and its work in the realm of collective security (Somalia, Haiti, Yugoslavia), with particular attention to the United Nations Security Council, the proposed International Criminal Court, and the International Court of Justice.

This course is an exercise in applied international law and politics. The objective of the course is to train students to use international legal materials in analysing inter-state disputes and the role of international organisations in resolving or exacerbating them.

**International Law Elective** **LAWS2224**  
**(6 units)**

Syllabus: This will vary from year to year. In any given semester the elective will provide intensive coverage of a topic or topics in a substantive area of international law.

**International Law Elective: Law of the Sea** **LAWS2224**  
**(6 units)**

Second semester

Prerequisite: International Law

Syllabus: The unit will focus on the impact of the 1982 Montego Bay Convention on the Law of the Sea and more recent international instruments in the light of current State practice, seeking to identify, inter alia, the extent to which its provisions have become part of customary international Law.

Topics will include the history of law of the sea, internal waters, territorial waters and the regime of innocent passage; the contiguous zone; transit passage through straits used for international navigation; islands, archipelagoes and the regime of archipelagic sealanes passage; the high seas and the management of high seas fisheries; the Exclusive Economic Zone; and the Continental Shelf doctrine. Some of the following topics may also be included: deep-seabed mining and the International Area; dispute settlement mechanisms; delimitation issues between states with opposite or adjacent coasts.

**International Environmental Law** **LAWS2253**  
**(6 units)**

First semester

Prerequisite: International Law

Syllabus: The course takes a thematic approach by using selected regimes to highlight current trends in the development of international environmental law. This thematic approach also facilitates an exploration of the political and economic factors which influence the development of legal instruments designed to tackle pressing global environmental problems.

The course will cover fundamentals such as the history and sources of international environmental law, and the tension between international environmental regulation and state sovereignty. It also examines specific regimes and institutions to illustrate the complex and dynamic nature of the discipline. Issues to be covered will include climate change, biological diversity, trade and the environment, trade in hazardous wastes and nuclear pollution. Key

institutions such as the United Nations Environment Programme and the World Bank will also be examined.

**International Law of Human Rights** **LAWS2225**  
**(6 units)**

First semester

Prerequisite: International Law

Syllabus: This course is concerned with the efforts at the international level to establish legal norms to protect human rights, as human rights are a vital aspect in the relationship between a State and persons within its jurisdiction. It aims to provide students with an in depth understanding of international human rights law and practice and to develop some of the relevant legal skills. As far as possible, the course deals with contemporary issues and there will be significant student involvement during class. A contextual approach to the area is taken, which involves an examination of theories of rights, relevant legal and structural frameworks and the political, social, economic and cultural environment in which human rights arise.

Topics to be covered include:

- historical development of international human rights law
- theories of rights
- application of international human rights law in Australia
- structural limitations on international human rights law
- supervisory mechanisms
- refugee law and practice

**International Trade Law** **LAWS2226**  
**(6 units)**

First semester

Prerequisites: International Law

Syllabus: The course introduces students to the fundamental principles of international trade law. The primary goal of the course is to acquaint and familiarise students with the main pillars in this arena of international law and their effect on domestic law and policy.

The course covers the key agreements and principles of international trade law and the jurisdiction, policies and processes of the WTO, the IMF and the World Bank. It also encompasses major critical analyses of international trade law together with an in-depth review of relevant GATT/WTO panel and appellate body decisions.

Themes that will be addressed throughout the course will include the origins of international trade law, fundamental principles of the GATT/WTO regime, Intellectual Property (TRIPS), Services (GATS), the new WTO Dispute Settlement Understanding, the WTO Dumping and Subsidies regimes and the Sanitary and Phytosanitary Agreement.

The effects of trade and financial liberalisation in general on developing countries will also be the subject of review together with an analysis of the on-going conflict between the basic dictates of international trade agreements on the one hand and the need to enshrine and protect international environmental and labour standards on the other.

**Japanese Law** **LAWS2227**  
**(6 units)**

First semester

Prerequisite: none

Syllabus: This course explores the broad themes which explain how law operates in Japanese society. An understanding of Japanese law and its institutions is important because of Japan's position as a world power. The primary objective of the course is to apply comparative law technique to a wide range of Japanese law topics with a view to:

- learning about how Japanese law deals with a variety of issues;
- deepening understanding of Japanese society, including its political framework, business practices and cultural makeup;
- developing skills in critical evaluation of foreign legal systems and the implications for Australian law and practice;
- exploring generally what law is and how it functions in a society.

The first part focuses on placing Japanese law in context. Topics include: Introduction to Comparative Law Technique; An Interdisciplinary Approach to Japanese Law; Japanese Legal History; and Overview of Administration of Justice in Japan.

The second part examines public and social law, including the Constitution; Administrative Law; Conflict in Society and Dispute Resolution; Equal Opportunity and Sexual Harassment; Family Law; Torts; and Criminal Justice.

The third part concentrates on business and commercial law such as Contract; Corporations Law; Competition Law and Policy; Banking and Finance; and Intellectual Property.

### Jessup Moot

**LAWS3010**  
(6 units)

Summer 2001–2002

Prerequisite: Only students selected by the examiners for the course, on the basis of criteria adopted by Faculty, to represent ANU in the Jessup Moot Competition will be eligible to enrol in the course. Familiarity with International Law and / or mooted and research experience are desirable, as well as a willingness to devote most of the summer period to the undertaking.

Syllabus: Participation in the Australian Round of the Philip C. Jessup International Law Moot Court Competition, consisting of

- the joint preparation of written memorials in support of the claims of each of the two parties in the dispute;
- the presentation by some or all of the team members of oral argument in a competition with teams representing other Australian Law Schools.

### Labour Law

**LAWS2228**  
(6 units)

First semester

Prerequisite: Contracts

Syllabus: The course introduces students to the foundational principles of Australian labour law, focussing on the nature and attributes of work relationships, and the diverse and changing sources of rights and obligations in the workplace.

The principal topics are:

- the shaping of Australian labour law, including the contractual basis of employment, the role of conciliation and arbitration, the evolution of the award system and the nature of modern awards, the contemporary shift towards decentralised and individualised bargaining;
- the constitutional framework and its impact on the federal industrial relations system;
- the nature and content of the employment relationship, as distinct from other work relationships, in particular independent contracting;
- termination of employment;
- regulation of industrial conflict.

### Law and Sexualities

**LAWS2256**  
(6 units)

First semester

Prerequisites: none

Syllabus: This course is designed to explore the interactions between law and sexualities. It will:

- provide a theoretical framework which highlights the complexity and contradictions inherent in the construction of sexualities, from an interdisciplinary perspective;
- examine a range of legal controversies surrounding sexuality;
- consider the interaction of gender, class, race and sexuality issues;
- consider the relationship between "queer" theory, lesbian and gay theory and feminist theory; and
- consider the relationship between activism and the legal process.

### Law and Society in Southeast Asia

**LAWS2229**  
(6 units)

Second semester

Prerequisite: none

Syllabus: This course introduces students to the legal cultures of Southeast Asia, an area of immediate importance to Australia. Legally speaking, the area is one of the most complex in the world. It comprises: Burmese, Thai, Khmer and Java-Bali laws (the so-called 'Indian group'), the Malay and cognate laws (the 'Islamic group'), the Vietnamese laws (the 'Chinese group'), and, on the European side, Spanish, Portuguese, French, Dutch and English laws. These laws exist today in varying combinations, occasionally in harmony and, not infrequently, in conflict.

Part 1 of the course provides an historical outline of these systems. In Part 2 topics are selected from among a number of contemporary issues which include: constitutional law, family law, women and religious law (Islam), laws applicable to the overseas Chinese, customary law of land, current law reforms in selected states, Islamic law in Southeast Asia, colonial law, and legal pluralism.

### Law Internship

**LAWS2230**  
(6 units)

Summer 2001–2002

First and second semester

Prerequisite: A student must be in the final year, or the year before final year, of the law degree and have an academic record which illustrates the ability to research and report upon a complex project.

Syllabus: The student serves as an intern with a professional in a work setting which requires and develops both legal knowledge and a lawyer's approach to problem identification, analysis and recommendations.

The internship work setting may be in the public or private sector. The project, which is settled by written agreement among the student, professional, and internship director, may be multidisciplinary but must have a strong law element.

The time to be spent at the work site is variable; it reflects factors such as availability of data, library resources, interviewing needs, and degree of professional supervision.

The course requires a final paper of approximately 6,000 words.

### Parliament and the Executive

**LAWS2232**  
(6 units)

Not offered in 2002

Prerequisites: Australian Public Law

Syllabus: This course builds on the prerequisite courses to examine in depth the institutions of Parliament and the Executive, with particular emphasis on accountability.

Topics covered include:

#### *Parliament*

- different perspectives on the role of Parliament;
- the relationship of the legislature to the executive, the judiciary, and the public;
- legislative autonomy and cooperative federalism;
- legislative procedure;
- parliamentary privilege;
- reform of the institution of Parliament.

#### *The Executive*

- the concept of accountability in a Westminster system;
- theories of accountability (including the impact of the public/private distinction);
- financial and parliamentary institutions to guard executive accountability;
- accountability in relation to information held by government;
- administrative law as an accountability tool.

**Research Methodology**

**LAWS3201**  
**(Zero units)**

First and second semester

Prerequisite: none. The course may be taken only in the second-last or third-last semester of law studies.

Syllabus: This course is designed for students intending to enrol in the Research Paper. It will include consideration of the diversity of legal scholarship including not only doctrinal analysis but also empirical, interdisciplinary, historical, jurisprudential and theoretical research perspectives.

Students have the opportunity to prepare a proposal for a major research topic of their own choice, to refresh or enhance their legal research skills, and to receive training in a range of social science research methods and techniques as relevant to their proposed research. The course will also include consideration of the fundamentals of scholarly writing, organisational skills, and communication with research supervisors.

The grade available for satisfactory completion of this course is Course Requirements Satisfied (CRS).

**Research Paper**

**LAWS3202**  
**(12 units)**

First and second semester

Prerequisite: Research Methodology.

Enrolment in the Research Paper is restricted to students with the required grade point average. See section on degree of Bachelor of Laws with honours in the Undergraduate Handbook.

Syllabus: The course serves as Part B of the final Honours Examination for students wishing to graduate with an honours degree. The course objectives are:

- to test the ability of a student to undertake a limited but systematic study of an issue in the law of the student's own choosing, and to present the results of that study in a written form which is accessible to an interested, but not necessarily informed, legal reader;
- to facilitate the development of legal research writing skills; and
- to assist the student to educate himself or herself further in the law, its methods and limits.

The research paper (9,000–11,000 words) is supervised by a member of the Faculty and assessed by two examiners.

**Restitution**

**LAWS2254**  
**(6 units)**

Not offered in 2002

Prerequisite: Contracts

Syllabus: The course covers a variety of aspects of the law of restitution as it has developed in Australia, England and (to a lesser extent) Canada, and considers the inter-relationship between restitution, equity, and other categories of legal obligations. The course is divided into four unequal parts. The first section of the course considers:

- the history of restitution
- theories of restitution and the concept of unjust enrichment

The second part of the course examines various situations where restitutionary relief may be sought including:

- mistake
- compulsion
- ineffective contracts
- restitution by the revenue
- restitution for wrongs
- other topical issues

The third part highlights various defences including:

- estoppel
- change of position

The fourth part of the course examines remedies for unjust enrichment such as:

- common law following
- equitable tracing
- constructive trusts

**Restrictive Trade Practices**

**LAWS2255**

First semester

Prerequisite: Contracts

Syllabus: Fair, competitive and informed markets are essential ingredients contributing to high standards of living and international competitiveness. Australia's dynamic National Competition Policy is maintained by the Federal Trade Practices Act 1974 (Cth) ('the TPA'). The TPA aims to enhance the welfare of Australians through the promotion of competition and fair trading and provision for consumer protection. The TPA is enforced by the Australian Competition and Consumer Commission.

The object of this course is to consider the National Competition Policy and the way the TPA seeks to promote fair and competitive markets for the benefit of Australians. This is principally involve a consideration of Part IV of the TPA in preventing conduct such as price-fixing, boycotts, misuse of market power, anti-competitive exclusive dealing, resale price maintenance and anti-competitive mergers. In addition the course will examine the Access and Telecommunications Regimes and will consider the enforcement agenda and powers of the ACCC.

The Course will conclude with a consideration of the consequences for a breach of the TPA including the penalties and remedies that can be sought by the ACCC and by private parties.

**Rousseau Moot**

**LAWS2242**  
**(6 units)**

Not offered in 2002

Prerequisite: Only students selected by the examiners for the course, on the basis of criteria adopted by Faculty, to represent ANU in the Concours Charles Rousseau will be eligible to enrol in the course. Familiarity with International Law and/or mooting, adequate French language skills and research experience are desirable, as well as a willingness to devote most of the summer period to the undertaking.

Syllabus: Participation in the Concours Charles Rousseau, consisting of:

(a) the joint preparation of written memorials in French in support of the claims of the two parties in the dispute;

(b) the presentation, in French, by some or all of the team members of oral arguments in the competition's finals in Europe.

**Selected Topics in Australian-American Comparative Law**

**LAWS2257**  
**(6 units)**

Second semester

Prerequisite: none (though a prerequisite may on occasion be introduced in respect of the specific subject area of the course in a particular year).

Syllabus: While the specific subject area of the course will vary from year to year, depending on the particular field of interest of the ANU/UA visitors, it will involve a comparative study of Australian and US approaches to the particular subject matter. Assessment details, teaching methods and type of course materials will vary from year to year depending on the subject matter and personnel involved in each offering of the course, but will be specified prior to student enrolment in the course.

**Selected Topics in Torts**

**LAWS2233**  
**(6 units)**

Summer 2001–2002

Prerequisite: Torts

Syllabus: The course examines some contemporary issues in the law of torts, in order to evaluate the law's response to social change and to provide students with a sound preparation for legal practice.

Topics include a detailed treatment of defamation and privacy, and the torts relating to the intentional and negligent infliction of purely

economic loss. Other topics deal with contemporary issues in the law of negligence (eg, actions for 'wrongful birth' and 'wrongful life') and new applications of the law of trespass, with implications for civil liberties and privacy, for regulating non-consensual medical procedures, and for intervening in abusive domestic relationships.

### Special Law Elective 1: Issues in Contemporary Asian Law

**LAWS2234**  
(6 units)

Summer 2001–2002

Prerequisites: none

Syllabus: This course introduces students to contemporary issues in the law for East and Southeast Asia. The states in this region — China, Japan, Korea, Malaysia, Singapore, Brunei, Indonesia, Philippines, Thailand, Cambodia, Laos and Vietnam — present complex issues for Australia in a number of fields. This course is designed both for law students and also for those studying Asian histories, cultures and language. It does not require prior knowledge of the area. The course is structured in four parts: Asian law, the view from Australia; the state, law and religion; law and ideology; and selected themes (including minorities, human rights and the environment).

### Special Law Elective 2: Administrative Law Topics

**LAWS2235**  
(6 units)

Summer 2001–2002

Prerequisites: Administrative Law

Syllabus: The object is to study a number of topics not covered in depth in the course Administrative Law. The topics have been chosen with a view to their practical significance. There are five major areas of study:

- delegated legislation — to examine the various kinds of such laws, the process of their making, the influence of parliamentary committees of review, and key concepts of judicial review;
- freedom of information and privacy — to examine the key concepts in the Commonwealth Freedom of Information Act 1983 and Privacy Act 1988;
- tribunals for review of administrative action — to examine key concepts of jurisdiction, power, and procedure;
- judicial review — privative clauses and questions of law; and
- reasons statements and public interest immunity.

### Special Law Elective 3: Consumer Protection and Product Liability Law

**LAWS2239**  
(6 units)

Summer 2001–2002

Syllabus: The object of this special subject is to introduce students to the Consumer Protection and Product Liability provisions of the TPA. This will involve a consideration of:

- The role and function of consumer protection and product liability laws as part of Australia's National Competition Policy;
- Misleading and deceptive conduct (s 52) and its most common forms including silence, comparative advertising, passing off, sale of businesses, breach of contract and franchising industry issues;
- The status of future representations including predictions, opinions and testimonials (s 51A)
- Various forms of false conduct (s 53);
- "Special" areas of consumer concern such as pyramid selling and false claims for payments (s 61 and s 64);
- Country of Origin representations (Div 1AA);
- Conditions and warranties implied into consumer contracts by the TPA (Div 2 and Div 2A) including the status of 'No Refund' policies;
- Unconscionable conduct (Part IVA);
- Industry Codes of Conduct with an examination of the franchising industry (Part IVB);
- Product Liability (Part VA);
- Preventing Price Exploitation under the GST (Part VB);

- The various remedies under the TPA including damages, injunctions and other orders;
- The various defences under the TPA;
- Enforcement of the Consumer Protection and Product Liability provisions of the TPA by the Australian Competition and Consumer Commission, including the Commission's enforcement priorities and a consideration of recent enforcement activity.

### Special Law Elective 4: Law and Psychology

**LAWS2240**  
(6 units)

Second semester

Syllabus: This course explores the interface of psychology and law. One focus is psychology and courts, specifically the issues of eyewitness evidence, children as witnesses, the jury, sentencing, psychologists as expert witnesses, and language use in the courtroom. Another is on psycholegal studies, such as witness recognition procedures, persuasion in the courtroom, psychology and the police and perceptions of social justice. Material discussed is primarily of relevance to the Australian, New Zealand, United Kingdom, United States and Canadian legal systems. The course offers a critical perspective on the developing discipline of legal psychology, and also provides an insight into careers in professional and academic practice.

### Special Law Elective 5: International Organizations (Geneva)

**LAWS2241**  
(6 units)

Summer 2001–2002

Prerequisites: International Law (or Principles of International Law).

In addition, priority will be given to later year students who have completed at least one additional international law elective. Subject to this priority, students will be selected on a first-come first-serve basis, as enrolment will be strictly limited (10 students in 2001).

Syllabus: Students will spend three weeks in Geneva. They will attend 20 hours of formal academic instruction provided in part by the accompanying ANU staff member and in part by staff drawn from academic institutions in Geneva (Graduate Institute of Advanced Studies [HEI] and Université de Genève). The classes will address legal aspects of the work of various international organisations and agencies, both governmental and non-governmental, with a specific focus on those located in Geneva. In addition the students will take part in at least 20 hours of coordinated visits to a range of organisations in Geneva, each including presentations by legal specialists addressing the organisation's operations.

Please note that knowledge of French is not required as the entire course will be conducted in English.

### Special Law Elective 6: Children, Parents and the State

**LAWS2246**  
(6 units)

Summer 2001–2002

Prerequisite: none

Syllabus:

The course will examine the role of the law in promoting and protecting children's welfare. Historical analysis will demonstrate how conceptions of childhood have changed; there is now increased emphasis on children's rights and decreased emphasis on parents' rights. In addition to considering the implications of this change and the questions raised by the recognition of children's autonomy, the course will examine the circumstances in which the state should exercise parental authority in order to protect a child. The extent to which the state should be free to intervene in the parent/child relationship is not easy to determine. On the one hand is the belief that the state should not normally interfere in the private world of the family and, on the other, is the view that the courts have a substantial part to play in promoting children's best interests.

This theoretical discussion will form the background for the course's examination of the law in action. The operation of distinctive legal procedures will be analysed. The course will then focus on selected topics, including: the appropriateness of legal intervention to pro-

tection of a fetus, medical treatment for children, the law's response to child abuse and neglect, child welfare law and the Aboriginal community, aspects of the juvenile justice system, and the desirability of allowing a child to bring a negligence action against a parent or against a government welfare agency.

### **Succession**

### **LAWS2236 (6 units)**

Not offered in 2002

Prerequisite: none

Syllabus: The course examines the law governing succession to property after the death of the owner. Major topics include:

- the historical, social and economic context of succession law;
- the concept of an estate — what is the governing law, and what is included;
- wills, including the nature of wills, capacity, fraud, undue influence, formalities of making a will, revocation, revival, and construction;
- intestacy rules;
- family provision;
- personal representatives;
- administration of estates.

### **Survey of US Law**

### **LAWS2247 (6 units)**

Summer 2001–2002, taught at the University of Alabama Law School

Enrolment in the summer course is restricted to the students who have been accepted in the ANU/UA Summer Exchange Program

Prerequisite: none.

Syllabus: The course will consist of a series of introductory lectures by various University of Alabama Law School staff members on various aspects of American Law, supplemented by field trips to, e.g., the Civil Rights Museum in Birmingham, the Alabama Supreme Court in Montgomery, the Southern Poverty Law Center, and a large American law firm (forming an integral part of the course's class work and included in the contact hours). It will concentrate on non-common law subjects (e.g., Constitutional Law, Administrative Law, Labor Law, Limited Liability Corporations, Bankruptcy, Consumer Protection, Environmental Law, Federalism, etc.).

### **Takeovers and Securities Industry Law**

### **LAWS2237 (6 units)**

Second semester

Prerequisite: Corporations Law

Syllabus: This course examines important facets of the regulation of corporations. It investigates the law and policy issues relating to the acquisition of control of corporations, particularly by takeover and the regulation of the stock market generally.

The following topics will be covered:

- issues prompting, and theories shaping, the regulation of takeovers and the securities industry generally;
- directors' responsibilities in a takeover situation;
- controls upon the acquisition of shares under Part 6 of the Corporations Law;
- compulsory acquisition powers;
- controls of merger activity;
- the conduct of securities transactions;
- the powers of the Australian Securities and Investment Commission and the Australian Stock Exchange over listed companies and other participants in the industry;
- the obligations of listed companies, brokers and dealers;
- controls upon market manipulation and insider trading;
- the legal requirements for prospectuses.

### **Work and Law — Selected Topics**

### **LAWS2231 (6 units)**

Second semester

Prerequisite: none.

Syllabus: The workplace is the site for extensive legal regulation over and above the regulation of the contractual relationship between employer and employee — in areas such as occupational health and safety, equal employment opportunity, and relations between trade unions and their members. The course is designed to examine regulation in the workplace critically, with particular attention to the rationale and efficacy of the laws and policy options for reform.

The content of the course may vary in emphasis from time to time, in response to changing issues and trends in workplace regulation. Topics include:

- occupational health and safety law;
- the regulation of the internal affairs of trade unions;
- the operation of anti-discrimination law and equal opportunity law in the workplace, and its interaction with the law of arbitration and bargaining in addressing issues of equity.